IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SIXTH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE S.ANANDA REDDY

WRIT PETITION NO : 11304 of 2004

Between:

M/s K.M.L.Wine Centre, Relividhi, Visakhapatnam rep.by its Proprietor, Y.Bangaraiah, S/o Nookalu, aged about 50 years

..... PETITIONER

AND

Prohibition and Excise Superintendent, Visakhapatnam

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or Orders, Direction or Directions to declare the proceedings of the Respondent dated 16-7-2003 as illegal and to issue a consequential direction to the respondents not to take any steps for recovery of the amounts from the Petitioner as mentioned in the said proceedings

For the Petitioner: Mr.V.SRINIVAS, Advocate

For the Respondent No.: GP FOR PROHIBITION & EXCISE

The Court made the following ORDER:

This writ petition is filed by the petitioner aggrieved by the proceedings of the respondent, dated 16.07.2003, which is styled as a show cause notice. Under the said show cause notice, a sum of Rs.1,08,000/- is sought to be recovered from the petitioner towards the differential amount payable in terms of Rules 38 and 39 of the A.P. Indian Liquor and Foreign Liquor Rules 1970 (for short 'the Rules').

2. The grievance of the petitioner is that no notice has been issued by the respondent before issuing the impugned proceedings, though it is styled as show cause notice. According to the petitioner, the impugned proceedings has been issued basing on audit objection taken for the year 2000-2001, according to which, 10% of the annual licence fee has to be collected from the petitioner, as the petitioner has taken one Mr. M. Venkateshwar Rao as partner, without obtaining the permission from the department. Therefore, the petitioner is liable to pay the said differential licence fee in terms of the Rules.

3. At the time of hearing, the learned counsel for the petitioner stated that similar matter, in W.P.No.5910 of 2004, was decided by this Court by order dated 29.03.2004. Therefore, sought for passing similar order.

4. Heard both sides and considered the material available on record.

5. As the impugned notice of demand, styled as show cause notice, was issued without giving any prior notice and opportunity to the petitioner, therefore, the petitioner is directed to file objections to the show cause notice within a period of two weeks from the date of receipt of a copy of this order and after receiving the

explanation/objections to the show cause notice and after hearing the petitioner, the respondent is directed to determine the issue by passing appropriate orders and recover the amount if there is any liability from the petitioner. Till the orders are passed by the respondent, the respondent is not entitled to demand or recover any amount from the petitioner.

6. The writ petition is accordingly disposed of with the above directions. No costs.

06.07.2004

va

To

1. The Prohibition and Excise Superintendent, Visakhapatnam
2. Two CCs to G.P. for Prohibition and Excise, High Court of A.P. Buildings, Hyderabad (OUT)
3. Two CD Copies.